

SERVICE DATE - MAY 28, 2004

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-6 (Sub-No. 384X)

THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY –
ABANDONMENT EXEMPTION–IN MINNEHAHA COUNTY, SD

Decided: May 25, 2004

The Burlington Northern and Santa Fe Railway Company (BNSF) filed a notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments to abandon a 2.98-mile line of its railroad between milepost 147.15 and milepost 150.13 near Sioux Falls, in Minnehaha County, SD.¹ The notice stated that, if consummation had not been effected by BNSF's filing of a notice of consummation by August 11, 2000, and there were no legal or regulatory barriers to consummation, the authority to abandon would automatically expire.

By decision served September 9, 1999, the exemption was made subject to the conditions that BNSF: (1) consult with the National Geodetic Survey (NGS) and provide NGS with 90 days' notice prior to disturbing or destroying any geodetic station marker; and (2) retain its interest in and take no steps to alter the historic integrity of the line in its entirety until the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f, has been completed. By decision served April 13, 2004, the section 106 historic preservation condition was removed.²

On May 18, 2004, BNSF filed a request to extend the deadline for filing its notice of consummation. Because of the removal of the historic preservation condition in April 2004, BNSF states that its new consummation deadline is June 14, 2004, and that an extension until December 31, 2004, is necessary due to scheduling conflicts in salvaging the line.

Under 49 CFR 1152.29(e)(2), a railroad may, for good cause shown, file a request for an extension of time to file a notice of consummation in abandonment proceedings. Good cause has been shown and the deadline for filing the notice of consummation will accordingly be extended to December 31, 2004.

¹ Notice of the exemption was served and published in the Federal Register on August 11, 1999 (64 FR 43813-14).

² The April 13 decision noted that the NGS condition remained in effect.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. BNSF's request for an extension of time to exercise the abandonment authority is granted.
2. The authority to abandon must be exercised on or before December 31, 2004.
3. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary